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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

In re D.B. III, a Person Coming Under the
Juvenile Court Law.

ALAMEDA COUNTY SOCIAL
SERVICES AGENCY,

Plaintiff and Respondent,

v.

Dante B.,

Defendant and Respondent;

D.B. III,

Appellant.

A135996

(Alameda County
Super. Ct. No. OJ1117185)

This is an appeal by minor D.B. III from juvenile court orders following a six-month review hearing that, among other things, continued him in his father's care with family maintenance services and transferred the dependency case to Contra Costa County, where his father had moved his residence. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Minor D.B. III (minor) was born in 2010 to Dante B. (father) and M.B. (mother). On June 20, 2011, when minor was 11 months old, respondent Alameda County Social Services Agency (Agency) filed a juvenile dependency petition pursuant to Welfare and

Institutions Code section 300.¹ The filing of this section 300 petition has now resulted in three proceedings before this court. The first such proceeding, A133930, was a writ petition denied by this court on December 28, 2011. The second, A134349, was an appeal challenging the jurisdictional-dispositional orders entered November 29, 2011, which was denied by this court in a nonpublished decision filed December 21, 2012. (See *In re D.B. III*, 2012 Cal.App. Unpub. LEXIS 9333 (December 21, 2012, A134349) (nonpub. opn.) Before us now is the third appellate proceeding. Given our familiarity with this case, in the name of judicial efficiency, we incorporate by reference the factual and procedural background set forth in our nonpublished decision filed December 21, 2012. In addition, we provide the following brief summary of events occurring since the filing of that decision.

On May 10, 2012, the juvenile court held a contested six-month status review hearing that was ultimately continued to May 14, 2012 to await the presence of father. The court requested father's appearance to discuss a safety issue regarding minor's contact with his half-sibling's mother. At this hearing, the juvenile court received into evidence a status review report prepared by the Agency, heard statements from father, and heard argument from the Agency, father's counsel and minor's counsel. The status review report noted, among other things, that father continued to test positive for marijuana (on April 21 and 23, 2012) and to fail to report for testing (on April 10, 2012). In addition, father had not completed individual counseling services. However, father had successfully completed a parenting class, enrolled minor in childcare and maintained stable housing. Minor, in turn, had been diagnosed with and was receiving treatment for asthma, and was being referred to a care provider to address a possible speech/language delay.

Following the continued hearing, the juvenile court issued the orders challenged herein. Specifically, the juvenile court ordered father, with his agreement, to disallow the

¹ Unless otherwise stated, all statutory citations herein are to the Welfare and Institutions Code.

mother of minor's half sibling to reside with or have unsupervised contact with minor. The juvenile court also continued minor's placement with father with family maintenance services and ordered the case transferred to Contra Costa County, which was closer to father's new residence. Minor's counsel, in turn, reserved his previously-made objections to the November 29, 2011 dispositional order and to the court's order that minor file a section 827 petition in order to solicit testimony from Agency caseworker Robin Stults. A timely appeal of the court's May 14, 2012 orders was filed on July 10, 2012.

DISCUSSION

The sole issue raised by minor for our review is that the juvenile court orders of May 14, 2012 must be reversed as void because the underlying order upon which they are based – the November 29, 2011 jurisdictional-dispositional order – is void. Minor reasons that the November 29, 2011 jurisdictional-dispositional order is void because it was obtained in violation of his due process rights (*In re B.G.* (1974) 11 Cal.3d 679, 689), and that orders, like those challenged here, that are based on a void order or judgment are likewise void (*311 South Spring Street Co. v. Dept. of General Services* (2009) 178 Cal.App.4th 1009, 1014).

There is a fatal flaw in minor's argument. In contending the November 29, 2011 jurisdictional-dispositional order is void as contrary to due process, minor simply adopts by reference the arguments raised in his opening and reply briefs of his appeal of that order (A134349), which, at the time he filed his brief in this appeal was pending before this court. Briefly stated, in those appellate briefs, minor argued the juvenile court violated his due process right to present relevant evidence at the jurisdictional-dispositional hearing regarding his safety under father's care.² However, after briefing in

² To add further detail, minor contended he was precluded from presenting this safety-related evidence by the trial court's rulings to grant the Agency's motion to quash the subpoena issued by minor's trial counsel to Stults, the Agency caseworker for minor's half-sibling's dependency case, and to deny his oral motion for a continuance. The trial court advised minor when granting the motion to quash that he should follow the procedure set forth in section 827, a statute designed to ensure juvenile file

the appeal at hand finished, we reached a decision in the earlier appeal, rejecting his due process challenge and affirming the order.³ (See *In re D.B. III*, 2012 Cal.App. Unpub. LEXIS 9333 (December 21, 2012, A134349) (nonpub. opn.).) In doing so, we reasoned as follows: “[W]e reject minor’s contention that, by granting the Agency’s motion to quash the [caseworker’s] subpoena and by denying his oral motion for a continuance, the juvenile court violated his procedural due process right to present evidence relevant to his safety in father’s care. Procedural due process requirements in dependency cases generally focus on ‘the right to a hearing and the right to notice’ (*In re Crystal J.* (1993) 12 Cal.App.4th 407, 412-413), and in this regard it has been noted that California’s ‘dependency scheme is a “remarkable system of checks and balances [Citation] designed to ‘preserve the parent-child relationship’ and to reduce the risk of erroneous fact-finding in . . . many different ways” [Citation.]’ (*In re Meranda P.* (1997) 56 Cal.App.4th 1143, 1154) As pertinent here, the court’s ruling on November 29 did not permanently foreclose presentation of evidence from [minor’s half-sibling’s] dependency case if such evidence proved material to disposition in the minor’s case. Rather, the procedural protections set forth under section 388 allowed the minor to bring such evidence before the juvenile court. Indeed, a section 388 petition must be liberally construed in favor of its sufficiency (Cal. Rules of Court, rule 5.570(a)), and if the petition presents *any* evidence that a hearing would promote the best interests of the child, the court must order the hearing. (See *In re Aljamie D.* (2000) 84 Cal.App.4th 424, 431-432.) In sum, given the protections afforded to the minor by section 388, the trial court’s rulings, granting the Agency’s motion to quash and denying minor’s oral motion for a continuance, did not

confidentiality, to obtain the desired information. (See *In re Anthony H.* (2005) 129 Cal.App.4th 495, 502.) In October 2012, minor did in fact file a section 827 petition, which was granted by the trial court and authorized him to inspect and copy documents from his half-sibling’s case. (*In re D.B. III, supra*, at pp. *5-*6, *11.)

³ We also rejected minor’s two related contentions that the juvenile court erred by granting the Agency’s motion to quash the subpoena issued to Stults and by denying his oral motion for a continuance of the November 29, 2011 continued disposition hearing. (*In re D.B. III, supra*, at pp. *12-*20.)

result in a deprivation of procedural due process.”⁴ (*In re D.B. III, supra*, at pp. *20-*22.)

Thus, because we have already held in the earlier appeal that the underlying order in this case was lawful and not rendered in violation of minor’s due process rights, minor’s sole argument in this appeal that the subsequent May 14, 2012 orders are void because they are based on an unlawful and thus void order necessarily fails. The juvenile court’s orders therefore stand.

DISPOSITION

The juvenile court’s May 14, 2012 orders are affirmed.

Jenkins, J.

We concur:

McGuinness, P. J.

Siggins, J.

⁴ In a footnote, this court added: “The documents submitted by the Agency for our judicial notice indicate that minor did not file a section 388 petition following disposition and prior to the six-month review hearing, and at the six-month review hearing the matter was submitted on the Agency’s report without presentation of evidence by minor.” (*In re D.B. III, supra*, at p. *22, fn. 6.)